

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA * CRIMINAL NO. 08-148
VERSUS * SECTION: "S" (1)
AKASIA LEE *

* * *

FACTUAL BASIS

If this matter were to proceed to trial, the government would prove the following facts through competent evidence:

Joe Kopsa would testify and provide evidence showing that Medicaid is a public insurance (assistance) program that provides primary and preventative health care coverage to low-income families and persons with medical disabilities. UNISYS Corporation is a fiscal intermediary that processes Medicaid claims and makes reimbursement to providers for rendering services to qualified Medicaid recipients. Each claim submitted by a provider discloses the recipient's identification number and the name of the recipient receiving the service, a description of the procedure using a billing code that accurately describes the service rendered, the date of service, the amount billed and the provider's unique Medicaid number.

Records from Medicaid and documents recovered in a search of A New Beginning of New Orleans, Inc. (ANBNO) in May 2005 would prove that ANBNO was an agency located at 3714 Westbank Expressway, Suite 7, Harvey, Louisiana, that was certified by Medicaid to provide services to eligible Medicaid recipients. On April 28, 2001, ANBNO applied for a Medicaid Provider Number (PN) to become a Personal Care Attendant Provider. The application disclosed that Michael Davis and Akasia Lee were the owners of ANBNO. ANBNO was issued Medicaid PN 0018874; Medicaid changed the PN for ANBNO to 17081 in September 2003.

Joe Kopsa would testify that ANBNO transmitted its claims to UNISYS electronically. Each electronic billing included a professional services certification, signed by the provider, which stated in part: “the services rendered were necessary, medically indicated and were rendered by me or under my personal supervision. I have reviewed the claim information submitted and certify that it is true, accurate and complete . . . I understand that payment and satisfaction of these claims will be from federal and state funds, and that any false claims, statements, or documents, or concealment of material fact, may be prosecuted under applicable federal and state laws.”

Linda Wascom, a Program Director for Louisiana Medicaid would testify about Medicaid’s Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program which covers personal care services (PCS) available to eligible recipients meeting the medical necessity

criteria for the services. PCS are prescribed by physicians who also approve a plan of care (POC) which specifies the type of PCS to be provided, that is, the activities of daily living for which assistance is needed, and the minimum and maximum frequency and duration of these services.

PCS must be provided through a licensed Personal Care Attendant Medicaid provider in a recipient's home unless it is medically necessary to do so elsewhere. The recipient's immediate family was not allowed to provide PCS. Immediate family was defined as father, mother, sister, brother, spouse, child, grandparent, in-law, or any individual acting as parent or guardian of the recipient.

The purpose of ordering PCS was to prevent institutionalization of the recipient, and to enable the recipient to be treated on an outpatient basis rather than an inpatient basis. EPSDT PCS included:

1. Basic personal care, toileting and grooming activities, including bathing, hair care and assistance with dressing;
2. Assistance with bladder and/or bowel requirements, including helping the client to and from the bathroom or assisting with bedpan routines;
3. Assisting with eating and food, nutrition and diet activities, including preparing meals for the recipient only;
4. Performing incidental household services only for the recipient that are essential to the recipient's health and comfort in the home, such as changing and washing the recipient's bed linens or cleaning up, or of meal preparation for the recipient only.
5. Accompanying, but not transporting, the recipient to and from the doctor;

Ms. Wascom would testify that, to properly document EPSDT PCS, providers must include dates of service, services provided, total number of hours worked, time period worked, condition of recipient and service provision difficulties.

The investigation of the billings submitted by ANBNO to the Louisiana Medicaid Program conducted by the Federal Bureau of Investigation, the Office of Inspector General for the U.S. Department of Health and Human Services and the Louisiana Department of Justice's Medicaid Fraud Control Unit indicated that virtually every PCS claim submitted for reimbursement was false and fraudulent.

The government would introduce evidence obtained in the search of ANBNO showing that forged, altered and falsified prescriptions, 90-L forms and other documents required for pre-authorization of services by Medicaid were contained in patients files. Templates of these documents would also be introduced which were recovered from the top of book cases in the office of Crystal Black. These documents were submitted to the Medicaid Program by ANBNO in order to receive authorization to bill for PCS. These fraudulent prescriptions indicated that a physician had ordered and authorized the PCS as medically necessary, as well as POCs which listed diagnoses and/or conditions from which the patient did not suffer. This evidence would include original and photocopied prescriptions on which patient names or dates had been whited out, altered, hidden or removed in some manner. The documents were then copied, and other names or dates were written into the blanks on the copied documents. These documents were

then used for various patients for the purpose of seeking preapproval from the State for billing PCS for the patients. Anissa Eugene and Kenyatta Devezin would testify that Akasia Lee created these fraudulent documents and used them to obtain preauthorization from Medicaid to bill for PCS. Crystal Black would testify that Akasia Lee had the above-described false documents and that, two weeks prior to the execution of search warrants at ANBNO, Akasia Lee asked her to store the documents in her office, where they were ultimately found by federal agents. Crystal Black would testify that she overheard Akasia Lee tell Una Brown how she could not put too many hour on one day because only two hours a day could billed at a time. Lee also told Una Brown that whatever other arrangements she had with parents were between her and the parents.

Connie Smith would testify that, when she began at ANBNO, she was babysitting Akasia Lee's child and completing documentation which supported PCS billing. At some point, Akasia Lee assigned Smith other PCS clients. Lee told Smith that she would not have to actually perform services for these clients or even see them at all. Smith would also testify that she was paid \$144 per child per pay period and that Lee told her that she would have to pay the parent of each child half of that amount.

Keshia Shelby would testify that when IrMo was about 15 years old, he/she was enrolled with ANBNO. IrMo suffers from right brachial plexy palsy, which has disabled his/her right arm. After becoming enrolled with ANBNO, a worker from ANBNO came to Shelby's home to pick IrMo up and take him/her for rides. The worker took IrMo for a ride, to McDonalds or to

Burger King about 2 times per month. These were the only times that the ANBNO worker ever saw IrMo. Shelby read ANBNO paperwork at one point, and saw that the worker was supposed to be helping IrMo with his/her hair, with bathing, with dressing and with preparing meals, none of which the worker was doing. Shelby called Akasia Lee, and complained about the ANBNO worker. Shelby told Lee that the worker was not doing anything with IrMo. Lee stated that someone else would start working with IrMo, but nothing changed. Shelby recalled having two conversations with Lee about having a worker for IrMo. The worker never visited IrMo at home or performed any services for or with IrMo. Any paperwork indicating that a ANBNO rendered services for IrMo would be false.

Kenyatta Devezin would testify that she was hired as an assistant at ANBNO by Akasia Lee and Crystal Black in October of 2004. Akasia Lee approached Devezin and asked if she would like to make extra money by filling out fictitious time sheets for newly certified clients. Lee assigned Devezin to create fictitious time sheets for AnBu (boy), AnBu (girl) and CaGi, the children of JoAnn Girod. Akasia Lee instructed Devezin to back date time sheets and progress notes as if she had been rendering services for the prior months, and then to start creating false documents from that time forward. Akasia Lee instructed Devezin to be sure to list separate time sheets for each child, and to ensure that the times did not overlap, indicating that she spent two hours per day, seven days a week with each child. Devezin's paycheck indicated how many hours she would be paid for the fraudulent PCS services, and after cashing the check, Akasia Lee instructed Devezin to

pay half of the money paid for the fraudulent PCS services to JoAnn Girod. Devezin did what Akasia Lee instructed, filled out the false documentation as if she had rendered services to JoAnn Girod's children, and was paid for these false hours. JoAnn Girod would come to ANBNO to fill out parental signatures and initials on these false documents or on blank ANBNO time sheets or progress notes. Devezin cashed her checks, and placed half of the amount in an envelope to give to Girod. Devezin often left these envelopes with Gwendolyn Lee.

Kwan Allen would testify that he took children to Dr. Michael Jones for PCS certifications and evaluations. Allen brought checks with him from Akasia Lee on ANBNO checks that were made payable to Dr. Jones. Lee also paid Allen for referrals of children that he made to ANBNO. Allen never rendered the services documented on his clients' time sheets. The PCS services actually rendered were basically babysitting services.

Christie Coleman's child LeCo was enrolled for PCS services with ANBNO from 2001 through 2005. Akasia Lee introduced Coleman to D'Juan Robinson, who had Coleman fill out blank time sheets, activity sheets and daily schedules. Robinson told Coleman that Coleman would get half of what ANBNO was paid by the state if she signed the sheets. Robinson paid Coleman \$72 every two weeks for filling out the false documents. Akasia Lee was aware that Coleman was getting paid \$72 every two weeks, because Coleman had conversations with Lee about the payments, and about when or how should could receive them.

Anissa Eugene worked for ANBNO from 2001 through May of 2003. Eugene took orders and instructions directly from Akasia Lee. Akasia Lee instructed Eugene to fill out time sheets as if Eugene had provided PCS services to patients that were not provided. Akasia Lee gave Eugene the patient names for which to falsify time sheets, and gave Eugene an example “go by” in order to fill out the times and the activity sheets for the patients. When Eugene got paid for having allegedly serviced the children, Eugene would give this money back to Akasia Lee. Eugene only kept the \$300 that she received as base salary for working in the office. Akasia Lee told Eugene that she had arrangements with parents to give them money for signing time sheets. Eugene never performed any PCS services for any patients. All time sheets and activity schedules with Eugene’s name are false.

Several employees from ANBNO would testify that Akasia Lee told them that what they did for parents was between the parent and the worker as long as the documentation correctly indicated the providing of PCS.

The government would introduce into evidence financial and billing information provided by Medicaid establishing that ANBNO received approximately \$3,977,288 for PCS services based upon false ANBNO time sheets and PCS Daily Schedules which indicated that ANBNO employees provided PCS that were never rendered.

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